

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

UNITED STATES OF AMERICA,)
Government,)
VS.) CAUSE NO. 1:23-CR-028-H
JASON KYLE KERBY,)
Defendant.)

SENTENCING HEARING
BEFORE THE HONORABLE JAMES WESLEY HENDRIX,
UNITED STATES DISTRICT JUDGE

JUNE 10, 2024
ABILENE, TEXAS

A P P E A R A N C E S

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY; TRANSCRIPT
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P R O C E E D I N G S

THE COURT: The Court calls the last case on the sentencing docket today, United States vs. Jason Kyle Kerby, Case 1:23-CR-028-1.

Who is here on behalf of the defendant?

MR. MAYO: Tyler Mayo, Your Honor, on behalf of Mr. Kerby.

THE COURT: Thank you, Mr. Mayo.

And for the United States?

MS. WOOLAM: Good afternoon, Your Honor. Callie Woolam on behalf of the United States. Ready to proceed.

THE COURT: Thank you, Ms. Woolam.

Mr. Kerby, good afternoon.

THE DEFENDANT: Good afternoon.

THE COURT: Would you please tell me your full name, sir.

THE DEFENDANT: Jason Kyle Kerby.

THE COURT: All right. Mr. Kerby, let's talk about your case and how we got here today.

You previously appeared before Magistrate Judge Parker back in late January. You pled guilty to Counts 5 and 6 of the superseding indictment charging you with two counts of production of child pornography.

Judge Parker found that your guilty plea was knowing and voluntary and supported by a sufficient factual

1 basis, so he recommended that I accept your guilty plea. And I
2 did. On February 12th, I entered an order that accepted your
3 guilty plea and adjudged you guilty of the crime alleged
4 against you.

5 Now, Mr. Kerby, I know this is the first time you
6 and I are actually seeing each other during this process, but I
7 want you to know I'm very familiar with your case. Obviously,
8 there have been a lot of filings in this case. The Court, with
9 the great assistance of its court staff and law clerks, have
10 reviewed all these materials, and I am prepared to proceed
11 today. Okay?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Mr. Mayo, have you had an
14 opportunity to read the presentence report, the PSR addendum,
15 and the PSR second addendum and discuss those documents with
16 your client?

17 MR. MAYO: Yes, Your Honor.

18 THE COURT: Mr. Kerby, have you had an opportunity
19 to read your presentence report, the PSR addendum, and the PSR
20 second addendum and discuss those documents with your attorney?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: You understand we're here so I can
23 decide what sentence to impose?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. All right. Mr. Mayo, do you

1 have any objections to the PSR, the PSR addendum, or the PSR
2 second addendum?

3 MR. MAYO: No, Your Honor. And I'd also highlight
4 what Ms. Woolam filed regarding restitution. The defense is in
5 agreement that the \$540,000 amount is correct, as noted in the
6 conditions of supervised release. 517,000, roughly, was noted
7 in the second addendum, but we are not objecting to the 540,000
8 amount.

9 THE COURT: Okay. And that--you're referencing the
10 government's amended statement adopting the second addendum?

11 MR. MAYO: That is correct, Judge. And I filed an
12 amended--or an answer adopting that. That second addendum had
13 the incorrect amount, so I just wanted to make that clear on
14 the record.

15 THE COURT: Okay. All right. And the correct
16 amount-- You're saying the amended statement regarding the
17 second addendum had an incorrect amount?

18 MR. MAYO: I believe it referenced 517,000, Judge.
19 It didn't account for the travel expenses and the rental home
20 for the alleged victim--or, excuse me, not the alleged. Excuse
21 me. The victim and her family and the family members.

22 THE COURT: Okay. All right. Well, we will get to
23 the amounts to make sure we're all on the same page when we get
24 to that portion of the sentencing. But thank you for noting
25 that you have no objections and that you--other than making

1 sure the amount is precisely correct--

2 MR. MAYO: Yes, Your Honor.

3 THE COURT: --you have no objections.

4 MR. MAYO: No objections.

5 THE COURT: Any objections from the United States
6 to the PSR, its addendum, or its second addendum?

7 MS. WOOLAM: No, Your Honor, with the exception of
8 that restitution issue, which is well documented in the
9 filings, and we can discuss that when we get to restitution.

10 THE COURT: Okay. All right. Thank you.

11 The Court, hearing no objections, adopts the PSR,
12 the PSR addendum and second addendum's factual findings and
13 legal conclusions as my own, except, as the parties recognize
14 today, the Court notes that the victim impact and restitution
15 amount should also include an additional \$22,346.34 in
16 restitution awarded to Does 1 and 2 jointly. This amount
17 corresponds to the Does' travel and housing expenses following
18 the FBI raid that are detailed in Docket Number 44-1 and
19 previously agreed to by the parties in Docket Numbers 47 and
20 48. This additional restitution was also included in the
21 Court's notice of intent to impose conditions of supervised
22 release. So I will include that \$22,346.54.

23 That's the amount I have. Is that what you have,
24 Mr. Mayo?

25 MR. MAYO: Yes, Your Honor.

1 THE COURT: Ms. Woolam, is that correct?

2 MS. WOOLAM: That's correct. I might have misheard
3 you, Your Honor. I thought maybe the first time, you said
4 34 cents, but it is 54 cents, and you said that correctly just
5 now.

6 THE COURT: Yeah, 54 cents. So I have \$22,346.54.

7 MS. WOOLAM: That's correct, Your Honor.

8 THE COURT: All right. Mr. Mayo?

9 MR. MAYO: That is correct.

10 THE COURT: Okay. Thank you both. So with that
11 slight caveat, otherwise, I do adopt the PSR and its addendum
12 and second addendum.

13 I want to thank both parties for working together
14 about the restitution amount. The Court already doesn't like
15 to do math. It especially doesn't like to do math in public in
16 front of a room full of people. No one wants to hear that
17 anyway. So I asked the parties to get together. I'd also like
18 to thank Probation. This a complex case. This is a difficult
19 case. You all worked together very professionally while still
20 advocating for your clients, and that has made the Court's job
21 a lot easier, and we were able to get to the right result
22 outside of court. So I do appreciate and I commend both sides
23 for doing that.

24 Okay. Mr. Kerby, let me tell you your statutory
25 sentencing range and your advisory guideline range. So the

1 statutory sentencing range, or the total possible range of
2 punishment here, sir, is a term of imprisonment-- And this is
3 for each count of conviction. For each count of conviction,
4 the range potentially is a term of imprisonment of at least
5 15 years, but not more than 30 years; a fine of \$250,000, or
6 both; and a period of supervised release of at least 5 years,
7 and up to life.

8 Now, under the guidelines manual, we have a total
9 offense level of 43; your criminal history category is I; and
10 that results, typically, in an advisory guideline range of life
11 imprisonment. Now, one, that's advisory on me. Two, that's
12 not your actual guideline range here, because the statutory
13 maximum that you could face is 30 years per count. And because
14 of that, the guideline--the advisory guideline range becomes
15 360 months per count, combined, for an advisory range of
16 720 months.

17 Mr. Mayo, have I stated that advisory guideline
18 range correctly?

19 MR. MAYO: Yes, Your Honor.

20 THE COURT: Ms. Woolam?

21 MS. WOOLAM: That is correct, Your Honor.

22 THE COURT: All right. Okay. Mr. Mayo, I am in
23 receipt of your sentencing memorandum that requests a sentence
24 of 360 months per count, to run them concurrently, for a total
25 sentence of 30 years. You note multiple things in that, and I

1 understand that memo, but I'd be glad to hear any additional
2 evidence or argument that you have today on behalf of your
3 client.

4 MR. MAYO: Sure.

5 THE COURT: And why don't you use the podium for
6 the court reporter's benefit.

7 Mr. Kerby, you may have a seat.

8 MR. MAYO: Judge, I appreciate that. I also filed
9 the case law that I cited, both the *Randa11* case and--

10 THE COURT: Yeah, this is going to be--this one is
11 tricky, so let me just spell it for my court reporter.

12 MR. MAYO: Sure.

13 THE COURT: I think I know which one you're going
14 to mention. G-r-z-y-w-i-n-s-k-i. Is that the one you were
15 going to reference?

16 MR. MAYO: Yes, Your Honor.

17 THE COURT: Let's just call it *Grzywinski*.

18 MR. MAYO: That's perfect.

19 THE COURT: Good enough for me. Okay.

20 MR. MAYO: And to make it even easier, I'll mostly
21 reference *Randa11*, Judge.

22 THE COURT: All right.

23 MR. MAYO: Those cases--both defendants in those
24 received 45 years in prison, with multiple counts of production
25 of child pornography, among other heinous acts. Those--both of

1 those defendants were also prior sex offenders before receiving
2 the new federal charges.

3 Let me back up and say I have great empathy and
4 sorrow for the victims in this case, Judge. Nothing that I
5 say, the government says, or the sentence imposed today can
6 bring them back to square one. I have two daughters of my own.
7 I would note that I have great empathy for that family, and I
8 know Mr. Kerby does as well. It might come-- I hope the Court
9 doesn't find that disingenuous, but I do believe he does have
10 remorse for his actions in this case.

11 I'll also note that the *Smith* case that the
12 government cites in their sentencing memorandum--while he was a
13 one-point offender, he also had a prior uncalculated sexual
14 exploitation of a minor. So not any of the cases are really
15 analogous to this case.

16 I'm not asking for a downward variance. I'm not
17 asking for anything other than to run these two counts
18 concurrently, Judge. Thirty years is a sufficient sentence to
19 both promote accountability to the public, to hold the
20 defendant responsible, and to protect the public from future
21 crimes.

22 Mr. Kerby is a zero-point offender. He's-- You
23 know, I could stand up here and make excuses, Judge. I'm not.
24 This was heinous behavior; outside of his character, as shown
25 by his complete lack of criminal history, his loving family

1 that I've had contact with throughout. His son was married
2 yesterday--his youngest son, Mason.

3 And so, you know, he's not going to have any
4 free-world communication with his parents again. That was
5 because of his actions. He's not going to have any
6 communication in the free world with his children while they're
7 still children because of his actions, Judge.

8 That being said, 30 years is a sufficient period of
9 time to hold him accountable for these heinous acts, Judge, and
10 I would ask that you run these concurrently.

11 THE COURT: Okay.

12 MR. MAYO: Thank you.

13 THE COURT: All right. Thank you, Mr. Mayo. I
14 appreciate that argument today. I appreciate your written
15 sentencing memorandum, Docket Number 54. I've considered
16 everything in that as well. The Court has read and considered
17 *Randa11* and *Grzywinski*. I'll ask my colleague in Amarillo,
18 Kacsmark, how to properly pronounce that. He will know.

19 But I've considered both of those cases. I've read
20 them closely and considered your argument that, in light of
21 them, to avoid unwarranted sentencing disparity, the Court
22 should impose two 30-year sentences running concurrently.

23 I've also considered support letters from--on
24 behalf of Mr. Kerby from his sons. That's Document
25 Number 54-1. I have considered those. Would you like to offer

1 those into evidence, Mr. Mayo, given that the Court has
2 considered them, or no?

3 MR. MAYO: I would, Judge. I also served them to
4 Ms. Woolam, as well as U.S. Probation, prior to this hearing.

5 THE COURT: Okay. All right. Any objection to
6 admitting them into evidence?

7 MS. WOOLAM: No, Your Honor. They are part of a
8 sealed document. I don't know that the Court intends to seal
9 them or not, but the government has no objection either way.

10 THE COURT: Would you like to ask that they be
11 sealed, or no?

12 MR. MAYO: I would ask that they remain sealed just
13 with the sentencing memorandum, Judge.

14 THE COURT: Okay. All right. In light of their
15 relation to sealed sentencing materials, the Court will admit
16 them as Defendant's 1--Defendant's Sentencing 1. They will be
17 filed under seal. I find that the defendant's need for privacy
18 and the safety of the family outweighs the public's right to
19 access. They are just general support letters from sons on
20 behalf of the father, with some of the unique circumstances
21 mentioned in this case.

22 Okay. Mr. Kerby, I've heard from your attorney. I
23 have read all the materials in this case. But you have the
24 right to speak today if you'd like. You do not have to say
25 anything if you don't want to, and I won't hold it against you

1 if you don't.

2 Is there anything you would like to say, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. Go ahead.

5 THE DEFENDANT: First and foremost, I want to
6 apologize to my stepdaughters. I can't put into words the
7 regret that I have for the situation I've put them in. It's
8 the first thing I think about every morning. It's the last
9 thing I think about every night. I betrayed their trust, and I
10 know nothing that I say can--or do can change the past, but I
11 would give anything to stop the sequence of events that brought
12 us here today.

13 I was--I started living as a hypocrite against
14 everything I believe, everything I've taught my kids, and I'm
15 thankful that the dark path I was on was exposed. There are
16 several members of my family here today and several others in
17 the courtroom who are all extremely disappointed in me. Some
18 would even say they hate me. But there's no one more
19 disappointed or ashamed of my mistakes than myself. I have let
20 down and hurt everyone in this world that I care about most. I
21 let down my parents and my in-laws as a son. I let down my
22 siblings as a brother. I let down my wife as a husband, and I
23 let down my kids as a father and a stepfather.

24 Like Mr. Mayo said, one of my kids got married
25 yesterday. It's one of a thousand milestones every parent

1 dreams of sharing with their kids that I won't be able to share
2 with them, that I won't be able to support them. And no matter
3 how many good things I've done in my life, this is what people
4 are going to remember about me.

5 I just pray for this Court's mercy so that I can
6 one day have the opportunity to redeem myself to my family and
7 society and show everyone that there's been a transformation in
8 me.

9 Thank you, Your Honor.

10 THE COURT: All right. Thank you, Mr. Kerby. I
11 appreciate that statement, and I will take that into account.

12 All right. Mr. Mayo, why don't you and your client
13 have a seat.

14 MR. MAYO: Judge, briefly, I can't remember if we
15 addressed competency or anything like that, Judge. Mr. Kerby
16 is competent. I will note for the record, since being in Eden,
17 he has been on psychoactive medication for both anxiety and
18 depression. My communication with Mr. Kerby has improved
19 throughout this--throughout this span of time over ten months
20 now. I just wanted to note that for the Court's record and
21 that that is not a factor in his competency or anything like
22 that.

23 THE COURT: Okay. All right. There's no dispute
24 that he has been competent throughout these proceedings?

25 MR. MAYO: No, Your Honor, not at all.

1 THE COURT: Ms. Woolam, you agree with that.
2 Right?

3 MS. WOOLAM: The United States doesn't have any
4 reason to believe he is anything other than fully competent.

5 THE COURT: Nor do I. Okay.

6 MR. MAYO: Thank you, Judge.

7 THE COURT: And there's no evidence otherwise. All
8 right. Thank you for that.

9 All right. Okay. Ms. Woolam, I'd be glad to hear
10 anything from the United States. I would ask, if possible, if
11 we could begin with admitting any evidence that you think we
12 should admit today.

13 MS. WOOLAM: Yes, Your Honor.

14 Your Honor--

15 THE COURT: I was considering the information
16 attached to your memorandum, which are mostly documents about
17 restitution--that's 53-1--as well as the victim impact
18 statements in 53-2.

19 MS. WOOLAM: Yes, Your Honor. If I may actually
20 begin with moving the Court to dismiss the remaining counts of
21 the superseding indictment and proceeding to sentencing on
22 Counts 5 and 6.

23 THE COURT: That's granted.

24 MS. WOOLAM: I will forget that if I don't do
25 that--

1 THE COURT: So will I.

2 MS. WOOLAM: --very first.

3 THE COURT: Okay.

4 MS. WOOLAM: Thank you, Your Honor.

5 Your Honor, attached to various sealed sentencing
6 exhibits, we have Exhibits A, B, C, D, and E.

7 Exhibit A was provided to defense counsel and to
8 the Court to review. It is the restitution packet for an
9 unrelated victim that we ask the Court to take into
10 consideration as an example of the types of issues, especially
11 with regard to mental health, that Does 1 and 2 will face.
12 That's the April packet for the Aprilblonde series.

13 And we would ask, for each of these, that they be
14 admitted under seal, given the nature of their references to
15 victims and their use as sealed sentencing exhibits.

16 Exhibit B is the full restitution documents
17 submitted by--on behalf of Does 1 and 2, who are referred in
18 various things as L.C. and R.C.

19 There were some documents submitted previously.
20 Counsel for the defendant and I had a phone conference, which
21 was very helpful in resolving the restitution issues, with L.C.
22 and R.C.'s biological father and stepmother, and they, as a
23 result, provided some additional documentation. Through the
24 conversations and with all the documentation submitted, we have
25 agreed to the restitution numbers, and those final numbers--I

1 know we'll get to restitution, but they are spelled out in the
2 notice of supervised release conditions correctly.

3 Exhibit C are three victim impact statements. That
4 was attached to Docket Number 53.

5 Exhibit D includes two additional victim impact
6 statements. That was attached to Docket Number 58.

7 And Exhibit E is the final victim impact statement
8 we submitted on behalf of L.C. and R.C., and that was attached
9 to Docket Number 61.

10 THE COURT: All right. Mr. Mayo, any objection to
11 admitting Government's A through E, and admitting them under
12 seal?

13 MR. MAYO: No objection, Judge.

14 THE COURT: Government's A through E are admitted.
15 They are admitted under seal. I do make a specific finding
16 that the victims' right to privacy is outweighed by the
17 public's right to access those court documents. So for all
18 those reasons, they are admitted, and they are admitted under
19 seal. I'll ask both sides to keep up with the originals of
20 your exhibits.

21 All right. You may proceed, Ms. Woolam.

22 MS. WOOLAM: Thank you, Your Honor.

23 Your Honor, there's no secret here that the
24 United States is asking for a sentence of 720 months, the
25 maximum for both counts, to run consecutively, for a total

1 maximum sentence of 60 years. The United States believes that
2 the defendant should spend the next 60 years of his life waking
3 up every single day thinking about his abuse of his two
4 stepdaughters.

5 I don't think I ever can say things quite the same
6 way that individuals are able to say them in the victim impact
7 statements we receive, and there were several received in this
8 case which have just been admitted. I would like to just read
9 a few portions of some of the things that the family members
10 and community have had to process with Mr. Kerby's abuse of not
11 just his stepdaughters, but several other individuals.

12 A letter from Jay Weaver states, among other
13 things:

14 "The entire mess has been infuriating,
15 disgusting, sickening, and completely immoral.
16 This has been a crippling blow to our family, and
17 we would all love to see his sentencing carried out
18 to the fullest extent of the law.

19 "Jason deserves no mercy for the crimes he has
20 committed. Too many people were involved and
21 deceived by this monster of a human. The fact that
22 children were involved and drugged for his pleasure
23 is unfathomable."

24 Laurie Sherrod writes, in part, discussing the
25 trust that her whole family had on Jason Kerby:

1 "Little did we know he was a devil
2 masquerading as a Christian. Jason professed to be
3 a Christian musician, and we were all super happy
4 that they had found each other, all the while not
5 imagining the evil creature that lay behind this
6 Christian facade.

7 "This travesty has resulted in the loss of
8 innocence for five children. Three young men have
9 had their idea of a father-figure shattered, and
10 two beautiful young girls will likely be unable to
11 trust male figures in the future. Luckily, Daysha
12 had a solid relationship with her church family.
13 They rallied and got her moved into a safe home.

14 "All the people involved in Jason's depravity
15 have had to face the consequences of his actions.
16 He needs to be held accountable for the destruction
17 he has caused. There is no prison sentence long
18 enough to extinguish the pain and suffering he has
19 caused in the lives of the people subjected to the
20 wickedness they have had to endure. These children
21 may lose all their ability to discern right and
22 wrong. It could lead to suicide and/or violence in
23 the future.

24 "Please consider all victims and the
25 long-lasting effects of Jason's tragically

1 premeditated, horrific acts."

2 Mary Higby writes, in part, referring to the girls,
3 as well as Daysha:

4 "Let's talk about their mental health. Daysha
5 and her daughters' mental health are now in
6 jeopardy. All three of them are in therapy. All
7 three are trying to figure out how to navigate this
8 new life, this new life where they can't trust
9 people, where they are stared at, questioned.
10 People whisper whenever"--"wherever they go.
11 Thankfully, people will eventually find something
12 new to discuss, but it won't change the emotional
13 scars the girls and Daysha will have a lifetime
14 trying to heal. No amount of therapy can overcome
15 something like this.

16 "So I plead with you to please give him the
17 maximum prison sentence for the safety of women,
18 men, and children. Please do not allow him parole.
19 Please give Daysha, her girls, me, and this
20 community the comfort of getting one more sick
21 pedophile behind bars, one more monster who
22 deserves to be locked up, away from society."

23 Kenny and Janessa Berry write about their own
24 daughter's suffering at Jason's hands:

25 "He was somebody she completely trusted, as

1 did our entire family. As you can imagine, the
2 emotional impact from having someone you trust
3 commit this kind of betrayal is unimaginable.
4 Jason never exhibited any warning signs or, quote,
5 red flags that would have caused someone to have
6 any suspicion of him. This scenario would make
7 anyone unable to have confidence in their own
8 ability to discern someone's true character."

9 Referring to their daughter, "had just moved
10 into her first college house when this was
11 discovered, and, of course, it has created a sense
12 of fear and mistrust. For example, she has had the
13 opportunity to spend this summer in Montana as a
14 church intern, for which she was provided a host
15 home. You can only imagine the fear and
16 apprehension she feels as she must constantly try
17 to identify if there is a reason to be concerned
18 with the host family or if there are any unknown
19 cameras in the home. An amazing experience has now
20 been tainted with the consistent fear that comes
21 from being a victim of something such as this.

22 "As her parents, there is tremendous
23 heartbreak in hearing your daughter with true fear
24 in her voice as she tries to navigate the aftermath
25 Jason has created with his actions. She is strong

1 and has worked very hard over the past nine months
2 to find ways to begin healing from this incident.
3 Although this will impact her for the rest of her
4 life, she will continue to work through ways to
5 restore her trust in relationships around her.
6 while her trust of earthly people may be shaken,
7 she places her ultimate trust in the Lord.

8 "Even though Jason has not expressed any
9 remorse, she would want you to know that she
10 ultimately forgives Jason, as the Lord asks her to
11 do. However, forgiveness does not mean an absence
12 of boundaries. Jason's selfish actions and
13 addiction to money, sex, and attention have
14 impacted so many people in very lasting ways.

15 "It is our belief that Jason is unable to
16 comprehend the trail of destruction that his
17 actions have created and that his prideful
18 personality could create repetition of his
19 behavior. We feel that he should receive the
20 maximum sentence, to limit any possible ways that
21 he could hurt other potential victims."

22 Your Honor, the last two letters, I would like to
23 read in their entirety. It is the letter submitted by Daysha,
24 who I mentioned. That is--the victims named in Counts 5 and 6,
25 that is their biological mother, as well as the letter

1 submitted by their biological father and stepmother on their
2 behalf.

3 When I discussed the opportunities to speak at
4 sentencing with many individuals involved, I explain how it can
5 be stressful coming up here and speaking your words about
6 especially about the horrific nature of abuse that somebody
7 like Jason Kerby has caused to these individuals. And I think
8 every one of these individuals that was strong enough to write
9 letters appropriately chose not to speak in person. They
10 didn't need additional stress in their lives, to have to come
11 up here and face Jason directly. But I hope that Mr. Kerby
12 will hear the words that they have written and taken the time
13 to put together and think about them every day for the rest of
14 his life.

15 Daysha Weaver writes:

16 "When I consider where to start writing a
17 victim impact statement, I realize that it would
18 have been much easier to say how we have not been
19 impacted, which would have been nothing. This has
20 impacted every part of our lives. It has been
21 extremely hard and emotionally painful to think
22 about.

23 "Seven years ago, I moved my girls and me to
24 Abilene to start a new life with a man and his
25 boys. I wholeheartedly believed this man to be a

1 good Christian, a man who promised to love and
2 protect myself and my girls. He even wrote and
3 recorded songs about it, as well as wrote and
4 recorded Christian songs. We built what I believed
5 to be at the time a beautiful life together. Jason
6 had it all: a beautiful home with an amazing yard,
7 a great job where he was continually successful, a
8 successful and growing side business, a church and
9 life group where we were active, and, most
10 importantly, a beautiful family with kids and a
11 wife who adored, trusted, and loved him. I am not
12 like Jason in the fact that he is overly confident
13 and conceited, which was always my pet peeve of
14 him, but I can say with confidence that I was the
15 best wife I could have been to him, loyal and
16 loving, and the best stepmom to his boys that I
17 knew how to be. The girls were good sisters to his
18 boys and good stepdaughters to him.

19 "At 6:00 a.m. on August 28th, the FBI
20 surrounded our house and beat on all the windows
21 and doors, yelling, 'FBI, let us in,' and our lives
22 were forever changed. That was the last time I've
23 seen Jason. There was no time even to ask what was
24 going on before we all met at the front door, him
25 and I, his youngest son, and my two daughters, and

1 he was immediately arrested and taken away. We
2 were all in shock and will forever have trauma over
3 the abrupt awakening that morning. We were all
4 taken to stand in front of a yard while FBI agents
5 entered our house and started going through
6 everything. I could see them get ladders and start
7 with air conditioner/heating vents and electrical
8 outlets. Even then, it never occurred to me that
9 the reason they were there could be as bad as it
10 was. I thought maybe he was a bookie or had gotten
11 into trouble with illegally selling equipment.

12 "After about 15 minutes, I was asked to sit
13 in an FBI car with two agents. We live across the
14 street from the high school, so my life was turned
15 upside down as the Wylie High School cross-country
16 team ran by. As they showed me the first picture,
17 all my love for my husband turned to hate. With
18 each picture, the hate grew. I discovered that the
19 man I married was not a good Christian man. I
20 found out I had been married to an amazing actor, a
21 pathological liar, and a monster. I never
22 considered myself capable of hate. I taught my
23 girls it was wrong. But this has all made me into
24 a different person, one that feels tremendous hate
25 towards him now. Sometimes it is all-consuming.

1 "Upon seeing the pictures, I realized my
2 children and I could never stay in that home again,
3 the home we loved and had worked hard on. That
4 day, we packed bags and have never stayed there
5 another night. I also immediately hired an
6 attorney to file for divorce.

7 "I soon discovered that cameras, including
8 bathrooms and bedrooms, had been hidden all over
9 the house. We literally never had privacy in our
10 own homes. I found out that Jason had been
11 videoing and taking pictures of me and sharing them
12 on the internet without my permission for years,
13 including very intimate moments. I learned from
14 news articles that they had been shared with
15 Christian wife voyeur sites. I found out from
16 meetings with the FBI that he had been videoing at
17 our house for years: our families, my mother, his
18 mother, his sister-in-law, his niece, our friends
19 and their children, our children's friends, and his
20 boys' girlfriends. He completely took advantage of
21 the fact that I wanted to be the"--"that I wanted
22 to be the place where my girls' friends hung out.
23 I wanted to be involved with them and to know where
24 they were and who they were hanging out with.
25 Parents entrusted us with their minor children and

1 felt safe letting them come over. The girls'
2 friends are no longer allowed to stay at other
3 people's homes. Many of them are in therapy, and
4 many travel with portable devices that are supposed
5 to pick up cameras and recorders and have to check
6 spaces to ease anxiety, as do we. Not only did he
7 video and share at our home; I found out that he
8 took cameras disguised as chargers on family
9 holidays and vacations where he had taken the boys'
10 girlfriends. This was all very much premeditated.

11 "In these meetings and the coming months, I
12 also found out that Jason had been cheating on me.
13 Not just a few people, but with countless numbers.
14 Many included neighbors; customers in our business;
15 another individual and his son"--"that his son and
16 he had gone to for years; people he sang with,
17 including with Christian music songs; and countless
18 numbers I don't even know about. These people had
19 also been videoed. When I asked the FBI if there
20 was anything else, they were able to tell me"--
21 "they told that they also had videos of him with
22 17 different men. This came as an even bigger
23 shock, since he had always been against it, said it
24 was against the Bible and made lots of jokes about
25 it, especially back and forth to his work friends.

1 After finding out all the new information, I had a
2 panic attack and had to go get tested for sexually
3 transmitted diseases. Every day, I have to walk
4 around my community wondering, who else. I hate to
5 admit that it has been heartbreaking, as I thought
6 he was in love with me and never wondered about him
7 being faithful. He was very, very good at
8 pretending.

9 "I spent those first few weeks in a haze of
10 meetings with the FBI, getting a lawyer and meeting
11 with the lawyer, meetings with CPS, meetings with
12 the Children's Advocacy Center, meetings with the
13 Regional Victims Crisis Center, trying to get
14 things out of the house I had loved and find a new,
15 safe place for my girls and me to live. I missed
16 weeks of school, using up days I had accumulated
17 over my 12 years of teaching. My girls missed
18 several days in the beginning, as well. When I
19 went back to work, I still had to get myself to
20 therapy sessions, appointments, court, and
21 meetings, and the girls to their therapy and
22 appointments, as well, when it was my time with
23 them. Therapy will have to continue for years,
24 maybe a lifetime.

25 "I have wanted to be a mother since I was

1 little. I picked a career as a teacher to have the
2 same schedule as my kids. I worked for three years
3 saving money to spend seven years at home with my
4 babies so I would not miss a second. My girls have
5 always been my number-one priority. When they got
6 older, I started talking to them about predators,
7 checking tablets and phones, and having them under
8 my close watch. I hovered over them and wanted
9 them to be at our house so I could ensure their
10 safety and protect them from the monsters of the
11 world. I never dreamed in a million years that the
12 monster, predator, the molester would be living
13 under my own roof, sleeping beside me.

14 "Because of him and the idea that I should
15 have known, I've been drug through a custody battle
16 during the most traumatizing time of my life. I've
17 spent thousands of dollars on this, as well as on
18 protective orders for both of my daughters.
19 Despite doctors, therapists, specialists, and other
20 judges telling me that I would not have known that
21 these kinds of people are"--"that these kinds of
22 people are experts at hiding, I will always feel
23 guilty for not knowing, not seeing any signs, and
24 unknowingly putting myself and my daughters in this
25 situation.

1 "Jason grew up in a Christian home. He was
2 raised going to church and learning the Bible. He
3 continued attending church as an adult, even
4 working as a music minister. We attended church
5 regularly and were active in a life group. Our
6 children went to church camp every summer. He
7 knows and has always known the difference between
8 right and wrong. Every single time he did these
9 horrible things, he was making a decision.

10 "All three of us, myself and my girls, have
11 had trouble sleeping since the arrest. Doe 1 and I
12 have had to get on medicine to help us. Doe 1 also
13 had to get on anxiety medicine and blood pressure
14 medicine as a 14-year-old because of the stress,
15 anxiety, and panic attacks. I have had to get on
16 additional anxiety medication. I anticipate we may
17 have to be on medications forever. I also
18 anticipate us all having to continue with therapy
19 to deal with the issues he has caused.

20 "This has been horrifying, humiliating, and
21 embarrassing for all three of us. I am a very
22 private person, and wylie is a small community, so
23 the fact that everyone knows what has happened and
24 who we are continues to be a daily struggle.
25 Everyone knows who Jane Doe 1 and Jane Doe 2 are,

1 as listed in the articles and on the news.
2 Everyone at our schools knows what has happened.
3 We must courageously hold our heads up and face the
4 looks, whispers, and pity daily. He has taken away
5 our trust in men, security for the future, and
6 destroyed a family.

7 "what he did to everyone is horrible, but
8 what he did to my sweet innocent little girls is
9 unforgivable. Two little girls who trusted him and
10 loved him. He is a predator and should never be
11 allowed to be around young people ever again. He
12 has already gotten away with so much with so many
13 indictments being dropped in the plea deal. I'm
14 asking that he get the highest number of years for
15 what he did to my two precious daughters, who did
16 not deserve any of this."

17 And lastly, Your Honor, the victim impact statement
18 submitted on behalf of Jane Does 1 and Jane Does 2:

19 "Two of the minor victims perpetrated by Jason
20 Kerby were his stepdaughters, now the ages of
21 twelve and fifteen, with whom he has had access
22 since approximately 2016. Neither child felt
23 comfortable writing a victim impact statement;
24 instead, chose to allow their father and stepmother
25 to write this statement on their behalf based on

1 the information they have shared and our parental
2 observations and experiences with the children.
3 The girls collaborated on the topics in this
4 statement within their level of comfort.

5 "Jason has stolen much from these children,
6 including their childhood, innocence, purity, and
7 trust. He established and asserted dominance and
8 egotistical superiority over those much weaker and
9 purer than himself without regard to effects and
10 consequences on other human beings. His actions to
11 merely gratify his personal deviant desires and to
12 feed his narcissism will extend throughout the
13 lives of these children. Since the FBI raid on
14 their family home in August 2023, they have
15 acquired knowledge of his actions and learned about
16 his ongoing behaviors lacking regard for others,
17 his unwillingness and inability to experience
18 remorse, and his continued deviant behaviors.
19 Because of Jason's actions, these girls have
20 experienced the realization that they cannot trust
21 people, especially those with whom they have the
22 closest of relationships and live. Home no longer
23 represents safety. From Jason, they have learned
24 that those who say they love you, in reality, hurt
25 you and cannot be trusted; those who should

1 protect, instead, violate.

2 "Though children do not yet have the mental
3 development and emotional capacity to understand
4 abuse or articulate their experiences, these girls
5 are trying to process and organize the past, harm,
6 and new information. These girls are still very
7 much experiencing the crisis almost one full year
8 after learning about Jason's actions. They are
9 also engaged in trauma responses. They do
10 understand that Jason's behaviors were wrong, and
11 they worry about their future, privacy, health, and
12 relationships. They have confusing and conflicting
13 thoughts and feelings related to the abuse of their
14 minds, bodies, emotions, relationships, and
15 religion.

16 "Their distrust of Jason surfaced before the
17 FBI raid and peaked weeks before the raid occurred.
18 In their home, they felt unprotected, powerless,
19 and unnoticed as children in danger. After the
20 raid, they learned of Jason's actions against them.
21 It is understandable why they are worried about
22 their images being distributed, the community
23 knowing of their"--"of the perpetration by Jason,
24 the shame to their family, and Jason's lies and
25 sickness. They are angry and must grapple with the

1 thoughts of ill will that they have been taught is
2 morally wrong against Jason. Their sense of safety
3 and the number of their safe relationships has
4 dwindled to a couple, because they no longer trust
5 those placed in a position to love and protect
6 them. Since they knew something was wrong for two
7 years before the raid, they are working to manage
8 their self-trust and instincts.

9 "As we all know, one person's actions always
10 affect others, both directly and indirectly. His
11 actions have fractured significant relationships
12 within their family of origin, required them to
13 uproot from their home, move multiple times in less
14 than one year, seek ongoing counseling, and now
15 engage in a disruptive and psychologically
16 difficult custody battle to ensure they are
17 protected and will not be harmed again. While
18 moving out of the home where they were used and
19 perpetrated was bittersweet for the girls, they
20 continue to be required, as a matter of choice of
21 adults, to continue riding in the vehicle belonging
22 to Jason, a reminder of him and his actions.

23 "Both girls have cried and feel loneliness
24 because their friends' parents do not hold trust
25 for their children to visit them for activities,

1 much less spend the night with the girls, because
2 their children have also been violated by Jason.
3 The girls feel outcasted, tainted, and punished
4 because Jason took pictures of their friends and
5 other family members, and their family story was on
6 the news in a small community and spread rampant in
7 their schools. Their academic year of sixth and
8 ninth grade began with an FBI raid and has
9 continued past the final day of the school year
10 with a lack of structure, stability, and security.
11 They are worried that they will not get to see
12 their friends throughout the summer because of
13 Jason's actions. For children and adolescents,
14 friendships and school are contributors to healthy
15 development. Instead, these girls are lonely,
16 shamed, feel a low sense of self-worth, and must
17 pay for Jason's actions mentally and relationally.

18 "When primary caregivers tell a child that she
19 is the only problem in their marriage instead of
20 embracing and offering unconditional love and
21 regard, it stays in the psyche permanently. This
22 is something else he must live with. In early
23 2023, L.C. began having sudden-onset headaches, and
24 this continued until December 2023, when finally
25 she was prescribed medication to manage her blood

1 pressure that was in the critical range for a heart
2 attack. The high blood pressure coincided with
3 Jason's increasing arguments with her in the home
4 about trivial matters and the lack of protection
5 offered her as a child by witnesses. Since the
6 raid occurred less than one year ago, L.C. has
7 experienced significant weight gain, putting her at
8 further risk for cardiac and other medical
9 problems. After the FBI raid and knowledge
10 provided to her about Jason's actions, she required
11 an antianxiety medication she continues to take
12 today. For a period after the FBI raid, when in a
13 specific environment where she felt unsafe and
14 unprotected, she required a sleeping pill to afford
15 her any rest. R.C. is angry, untrusting, and feels
16 powerless as a child with no control over her own
17 life. She experiences flashbacks of Jason entering
18 her room at night with a light and removing
19 blankets from her body. Difficulty sleeping and
20 nightmares have plagued both girls as their
21 security and personal boundaries have been violated
22 throughout their lifetime, beginning in their
23 formative years. Both girls have demonstrated
24 increased struggles with energy, motivation,
25 ambition, and drive.

1 "Since his incarceration, the girls have been
2 placed in inappropriate reversed roles to help
3 others cope with Jason's choices, acceptance of his
4 personality disorders and authentic self, and
5 divorce, resulting in further instability and
6 turbulence to their lives. Such roles have impeded
7 the girls' needs being met and their ability to
8 enter their own path for healing, all while
9 required to navigate new experiences and
10 information regularly without an end in sight.
11 Both girls are angry that they were forced within
12 their primary family to pacify Jason's needs above
13 their own by having to take responsibility for his
14 feelings, apologize to him for his ongoing and
15 escalating chauvinistic and infantile arguments
16 with L.C., making R.C. kiss him on the mouth and
17 sit on his lap weeks before the FBI raid without
18 intervention at the age of eleven years, being
19 required to say 'I love you' to Jason when they did
20 not want to, and instructed to call him 'Dad' when
21 they did not see him as their dad and did not want
22 to refer to him as such.

23 "Daily the girls must question without
24 formative comprehension how Jason could continually
25 engage in such violence and abuse of two people he

1 purportedly loved and was positioned to protect.
2 Their minds struggle with darkness, fear, and anger
3 as they attempt to understand how the people from
4 whom they needed the most protection lived in their
5 own home and violated them for personal and
6 financial gain. Of course, there's no possible
7 explanation or justification for such
8 maliciousness; hence, mental resolution in this
9 regard is impossible. They trusted Jason and
10 relied on him as vulnerable children, yet he
11 intentionally and consciously failed them for his
12 own self-serving fulfillment. They may require
13 years or a lifetime of effort, support, and therapy
14 to gain some semblance of understanding and
15 resolution to his predatory behaviors against them.

16 "Jason's actions have forced them to mature
17 early. They have learned that trust must be earned
18 and that even those closest to them are not
19 trustworthy, honest, genuine, and protective. Home
20 is not safe; caregivers are not protectors. They
21 struggle with the awareness that Jason sought them
22 out from the beginning as young children to gratify
23 his personal sexually deviant needs while
24 attempting to grow a business from his violation of
25 them to become an entrepreneurial pseudo porn

1 actor, producer, and distributor, including images
2 of the girls online. They have been required to
3 acquire knowledge of subjects that children should
4 not be introduced to, nor should they have been
5 nonconsenting actors and victims of his sick world.
6 Jason was allowed the privilege of serving in the
7 role of stepfather despite their father's
8 verbalized warnings, and he was allowed to hijack
9 and poison their lives. Sadly, the girls are very
10 aware of these choices made for their lives,
11 especially by Jason.

12 "Of importance to the girls is the ability to
13 know and understand the implications, effects, and
14 potentialities of Jason's actions on their bodies.
15 Since learning of Jason's perpetration on them,
16 they have not been able to obtain a comprehensive
17 gynecological exam, an abuse assessment by a
18 competent and qualified medical professional, or
19 knowledge of these effects of the drugs Jason used
20 on them since he has refused to share this
21 information for their benefit. As a matter of
22 principle, they want to know the drugs used and the
23 method of administration. They feel a continued
24 violation because they are not privy to this
25 information and subsequently cannot know what

1 signs, symptoms, and outcomes may result from the
2 drugs now or in the future.

3 "Knowing their images were produced and
4 distributed on the internet, the girls worry about
5 who has seen their pictures, will see their
6 pictures in the future, and how this may influence
7 their life moving forward. They understand that
8 they now will work with lawyers throughout their
9 lifetime to manage the effects of Jason's
10 pornography business of which they were
11 nonconsensual actors, the potential voluminous FBI
12 notifications, court proceedings, and more.
13 Understandably, they are concerned about the ease
14 of accessibility of their images.

15 "The girls also understand they may have
16 ongoing medical and mental health needs throughout
17 their lifetime. As they enter dating as teenagers,
18 intimate relationships, motherhood, and watch their
19 children grow, they will be reminded of their
20 childhood experiences in the primary home and at
21 the will of Jason. There is no way to predict the
22 exact extent or effects of Jason's actions on their
23 lives. Since March 2023, one or both children have
24 requested and/or participated in counseling. L.C.
25 is now seeing her fifth counselor since April 2023

1 and, R.C., a third counselor; efforts that have
2 been required to find a fit to help them addressing
3 the comprehensiveness of what has occurred since
4 their formative years to the present without their
5 consent, knowledge, protection, or ability to
6 communicate openly and honestly in their primary
7 home.

8 "The search for a counselor that can help them
9 to address their past trauma and ongoing crises has
10 required them to share their story repeatedly,
11 something they greatly dislike and find
12 uncomfortable and burdensome. No child desires to
13 spend their adolescence in ongoing therapy to
14 process, understand, and hope to acquire some
15 resolution to such acts as performed by Jason.
16 Hopefully they will be able to eventually discover
17 a personal purpose and meaning in the circumstances
18 for which they had no will or power.

19 "Jason's prideful behaviors since his arrest
20 demonstrate his psychopathology. He continues to
21 seek justification and defends his actions by
22 seeking character references, telling his sons he
23 is reading the Bible and praying, believing he can
24 be redeemed. The girls understand that these
25 behaviors demonstrate a lack of remorse and a

1 denial of wrongdoing by Jason.

2 "Since, as a family, they were taught to sit
3 in the front row of the church with hands lifted
4 high to praise God, they are experiencing spiritual
5 and religious conflict and no longer want to attend
6 their church home"--"their home church, where their
7 personal boundaries were further violated in
8 response to the media coverage of Jason's abuse.
9 Now they feel uncomfortable, lack of faith in the
10 church, and untrusting of the church, and
11 understand the deceptiveness and maliciousness that
12 accompanies some false followers of God. Because
13 of Jason's choices, they have lost their church
14 home, their youth group, trust in organized
15 religion and the church. They have had to evaluate
16 their values, beliefs, truths, and confront dark
17 feelings toward other humans; namely, Jason.

18 "As well as their medical and mental health
19 and emotional stability, Jason has poisoned their
20 experience with the church and religion. The
21 violations of these two children extend beyond the
22 physical abuse into emotional and mental abuse.
23 These girls have learned firsthand that while we
24 must not harm or take the lives of another human
25 into our own hands to seek justice, sometimes we

1 have the desire to do so, and some lives are not
2 worthy of breath or existence. Jason has
3 introduced this harsh reality into their lives as
4 children that should have"--"that should have been
5 able to experience pure innocence, naivete, and
6 unconditional love until much later in life.

7 "As these girls continue to develop, mature,
8 and progress through life stages, they will
9 undoubtedly be reminded of Jason and his choices.
10 They will be confronted with mental, psychological,
11 emotional, spiritual, and noetic and relational
12 challenges on unknown scales. How they will
13 respond to these challenges can range from
14 resilience and altruism into emotional instability,
15 self-harm, addiction and eating disorders,
16 homicidal and suicidal ideation, an inability to
17 have children, unhealthy relationships, difficulty
18 with intimacy, impulsivity, the inability to trust
19 and suspicious tendencies, accepting Jason's
20 actions as their responsibility in shame, guilt,
21 anger, loneliness, and isolation.

22 "They will have to manage their reality and
23 feelings of abandonment by their primary caregivers
24 at a high risk for recidivi"--excuse me--
25 "revictimization, may feel the world is unsafe and

1 unstable, and have adjustment problems. Their
2 academic and career development can be impaired by
3 trauma. Each girl will be required to evaluate and
4 address their views of men, caregivers, the family
5 system, the meaning of home, and safety.

6 "In summary, Jason has affected every aspect
7 of their life, and processing, coping, discovering
8 purpose and meaning and learning how to live life
9 fully at different stages very well may require
10 their full lifetime. Jason's selfish moments of
11 personal gratification and narcissism has changed
12 the trajectory of their lives and perspectives of
13 their past. No human has this right or privilege
14 and should never be allowed to affect another human
15 in such a manner."

16 THE COURT: Does that conclude the victim impact
17 statements?

18 MS. WOOLAM: That does, yes, Your Honor.

19 THE COURT: Okay. Thank you for reading those.
20 Victims have a right to be heard. They have a right under the
21 law. There's a statute that governs this. So they have a
22 right to have you read those, and it was their choice to have
23 you read them in lieu of their appearing today, which is
24 perfectly fine. They have been heard, and I will take those
25 statements into account.

1 Before we move on, are there any other victims
2 present that want to be heard today?

3 MS. WOOLAM: No, Your Honor.

4 THE COURT: All right. Go ahead.

5 MS. WOOLAM: Thank you, Your Honor.

6 Your Honor, a 720-month sentence for Mr. Kerby is
7 the only appropriate sentence in this case. The nature and
8 circumstances of this offense are absolutely deplorable. A
9 720-month sentence, the statutory maximum, will provide a just
10 punishment, reflect the seriousness of this offense, and
11 hopefully protect society, and especially children.

12 For years, Mr. Kerby masqueraded as a good
13 Christian leader of his community, all while hiding horrific
14 crimes that he was committing. Kerby sexually abused
15 14-year-old Doe 1 multiple times. He drugged her, is our
16 belief, although, as noted, he has not admitted specifically to
17 what drugging, but based on factors located in the Kerby home
18 and on chat messages, it is believed he gave Doe 1 Ambien to
19 knock her out and keep her asleep so that he could sneak into
20 her room at night and sexually abuse her.

21 THE COURT: Yeah, that was my understanding, and
22 the PSR reports that he would give her Ambien so she wouldn't
23 wake up during the abuse. And there was no objection to that
24 in the presentence report; is that right?

25 MS. WOOLAM: That's correct, Your Honor.

1 THE COURT: Okay. Go ahead.

2 MS. WOOLAM: Yes, Your Honor. Specifically,
3 messages that were located amongst Kerby's devices, where he
4 was engaging in conversations with what I will refer to only as
5 a pedophile community, Kerby was instructing others how to use
6 Ambien to sexually abuse individuals, including minors.

7 Kerby told people online, "Sweet. You can order
8 Ambien online; two is phenomenal," is one statement that he
9 made, referring to the use of Ambien.

10 He also told an individual online, "Wish we could
11 drug both our daughters up and keep taking turns fucking their
12 brains out."

13 Kerby told another individual online, "Give her
14 three Ambien and fuck her brains out."

15 Tragically--I don't know how any facts could be
16 more tragic, but the fact that Doe 1 was drugged during this
17 abuse gave her no opportunity to even ever come forward and
18 make an outcry that this abuse was happening, because every
19 time he would film himself sexually abusing Doe 1, she was
20 drugged. She was out cold. And that's what made it easy for
21 him.

22 He then distributed those videos to others online.
23 It was mentioned in the victim impact statements, but there is
24 no telling-- The only person sitting in this courtroom that
25 has any idea how many people have probably seen the sexual

1 abuse of these girls is Jason Kerby, because he knows how many
2 people he sent those videos to. These girls will spend a
3 lifetime learning about more people that are located with their
4 videos.

5 In addition to the sexual abuse of Doe 1 while she
6 was knocked out, he filmed Doe 2, who was eleven years old at
7 the time; created sexually explicit films of her that she
8 didn't know were taking place while she was in the bathroom.

9 He also had hidden cameras throughout his entire
10 house filming any single person he could capture. There are at
11 least three other victims that have been identified throughout
12 this investigation that would be minors that Kerby captured
13 sexually explicit videos of just trying to have an overnight
14 stay at his house, trying to enjoy their childhoods.

15 And he distributed those videos. And we know of
16 the distribution because, at this point, one other individual
17 has been caught with those videos, an individual in Wisconsin,
18 which fortunately is the only reason that we are here today.
19 If that individual in Wisconsin hadn't saved the videos of
20 Kerby sexually abusing and sexually exploiting these victims,
21 Kerby may have never been captured. He may have continued this
22 for years.

23 Kerby's crimes are unspeakable. They are the stuff
24 of nightmares. They are things that no adult should even have
25 to think about, let alone the children that have had to unpack

1 this and learn about what they didn't know was happening to
2 them. A 720-month sentence will hopefully guarantee that Jason
3 Kerby is never able to walk out of a prison cell. It will
4 hopefully protect children from him. It will keep him from
5 being able to engage in this pedophile community to fuel
6 others' sexual desires, and it will reflect how truly heinous
7 and horrific his actions were.

8 For all of these reasons and all of the 3553(a)
9 factors, the United States requests a sentence of the statutory
10 maximum, 720 months, which would be a 360-month sentence as to
11 each of Counts 5 and 6, to run consecutively to one another.

12 Thank you, Your Honor.

13 THE COURT: All right. Thank you, Ms. Woolam. I
14 appreciate that argument, and I will take all that into
15 account.

16 And if-- One of the victims mentioned a desire to
17 not grant parole. If the victims were physically present--
18 you've probably explained this to them in any event, but if
19 they were physically present, I would explain to them, there's
20 no such thing as parole in the federal system. Parole was
21 abolished in the federal system long ago. So to the extent you
22 have not explained that already, I would ask the victim witness
23 coordinator, who I know is in the courtroom--again, it's most
24 likely already been done anyway, but out of an abundance of
25 caution, I would tell them that.

1 All right. Ms. Woolam, do you know any reason why
2 the Court cannot lawfully impose sentence at this time?

3 MS. WOOLAM: No, Your Honor.

4 THE COURT: Mr. Mayo?

5 MR. MAYO: No, Your Honor.

6 THE COURT: All right. I have carefully reviewed
7 the presentence report, the PSR addendum and its second
8 addendum, and I inform the defendant that the plea agreement is
9 finally accepted. Judgment and sentence will be consistent
10 with it.

11 I am required by statute to impose a sentence that
12 is sufficient, but not greater than necessary, to comply with
13 the purposes of sentencing set forth in Section 3553(a)(2), and
14 to consider all of the sentencing factors listed in that
15 statute, which I have done.

16 Now, Mr. Kerby, all that really means, what I just
17 said, is that I consider certain guideposts in every case to
18 try to figure out what's a reasonable sentence. Every case is
19 different because every person is different, every crime is
20 different, and every criminal defendant's history is
21 different.

22 One of the guideposts that I apply in every case is
23 the nature and circumstances of the offense, or what was the
24 crime, what did you do. It is difficult to overstate the
25 appalling, egregious, unthinkable nature of your crime, its

1 relevant conduct and its scope. We've talked at length about
2 it. I have adopted the presentence report, so I don't need to
3 restate everything, because, of course, I know what happened
4 here. Let me see if there's anything else that hasn't
5 previously been mentioned that I want to mention.

6 Regarding your activity in online communities
7 involving this activity, that is an aggravating factor to me
8 here. I mean, there are many, but we haven't talked about that
9 in too much length. But you asked to speak with agents after
10 the agents seized your devices and you told them that you used
11 messaging platforms to communicate with others about having sex
12 with their wives and that you had hidden cameras throughout
13 your residence, including the bathroom. And you admitted that
14 you were part of a social media messaging group called Verified
15 Daughter that shared child sexual abuse images.

16 You admitted that you took images of Doe 1 with
17 hidden cameras placed in vents, electrical outlets, and a USB
18 charger, and that you had recorded her and others for several
19 years. After being confronted with a series of pictures of the
20 actual sexual abuse of Doe 1, you admitted that it was you who
21 were in those images and videos and that you sexually abused
22 Doe 1.

23 Doe 1 would wake up about twice a month to a cell
24 phone light and you standing next to her in her bed. She said
25 that when she was not tired before bed, you would pressure her

1 into taking sleep medications and that you would take photos of
2 her and her friends when they were at the pool.

3 A forensic examination of your devices revealed
4 that you were sexually abusing Doe while she was sleeping, and
5 videos were also recovered depicting Doe 2 while--well,
6 pictures of her that were sexual in nature.

7 An external hard drive contained, among other
8 things, images and videos of your sexual abuse of Doe 1, and
9 law enforcement recovered chat conversations where you spoke
10 about sexually abusing Does 1 and 2, drugging them with Ambien
11 so they would stay asleep. In total, you produced and saved
12 500 images and videos of Does 1 and 2. You admitted that you
13 had distributed approximately twelve sexual abuse images of
14 Doe 1, and an additional twelve of Doe 2.

15 You admitted that you had produced child sexual
16 abuse images of two additional child victims during a sleepover
17 at your residence, people that had entrusted their children in
18 your house just so kids could have fun. You distributed those
19 images after that abuse over a social media network and
20 platform.

21 You later admitted to capturing nude images of an
22 adult female friend of your ex-wife on multiple occasions and
23 filming another child through a bathroom window. You had also
24 received a couple dozen child sexual abuse images of others.

25 Again, it's hard to overstate, in addition to

1 what's already been said in those victim impact statements and
2 what the United States has fairly said today, the serious and
3 egregious nature of this crime. There's just layer after
4 layer after layer of things that make this case particularly
5 disturbing, serious, dangerous.

6 Among them, to summarize-- Again, the advisory
7 guideline here typically would be life. It's been reduced to
8 720 months, or 60 years, because there's two counts, each with
9 30-year maximums. But make no mistake-- I know that you and
10 your attorney have asked for two 30-year sentences to run
11 concurrently, and I know the reasons for that, and I have
12 considered that.

13 But your conduct is so serious that Congress,
14 through a commission, under these circumstances, have said,
15 everything else being equal, life imprisonment. Here, it's
16 reduced to 720 months. Just advisory. I could throw it out
17 the window if I wanted to after considering it. So it's
18 advisory, but nevertheless, that speaks volumes to what a
19 serious crime we have before us.

20 And the reasons are legion. This case involves
21 hands-on sexual abuse. Possession of child pornography is
22 serious enough. Distribution is serious enough. But there's
23 hands-on sexual abuse of not one, not two--two minors, in
24 addition to capturing images of other people, in addition to
25 the hands-on sexual abuse of your--of two minors. It wasn't

1 just any abuse of minors. It was abuse of minor family
2 members, your own stepdaughters, a role that you took a sacred
3 oath to step into to fill a breach, and you leveraged that for
4 your own deviant and perverted pleasure and then shared it with
5 others.

6 In addition to the hands-on sexual abuse of the two
7 stepdaughters, the abuse persisted for years. Even a minor,
8 drunken, moronic, and criminal single episode would be
9 incredibly serious, and you wake up the next day and go, what
10 in the world have I done.

11 That's not what happened here. There was no
12 sobering up. There was no, "This can't go on." This abuse
13 persisted for years. The trauma that was caused your victims,
14 it's going to persist for years, and it's immeasurable. They
15 have a life sentence to deal with this. The victim impact
16 statements that were read today weigh heavily here. Those
17 victims have been heard, and I will take those into account.

18 In addition to the hands-on sexual abuse of your
19 stepdaughters for years, for years, that wasn't enough. You
20 captured this abuse with digital images and videos, compounding
21 the trauma. This isn't something that they had to suffer once,
22 knowing that. That was harmful enough. But now they know that
23 it was captured to be viewed later for someone else's
24 enjoyment, your own.

25 But in addition to that, you then distributed those

1 images and videos of your own stepdaughters to others on the
2 internet to share that abuse so other people could get their
3 enjoyment from it, again, again, just multiplying the damage
4 done to your own family.

5 You were involved with an online community of other
6 child predators or peddlers of child sexual abuse images. And
7 that is a significant and serious aggravating factor here, and
8 it just shows how deep your perversion and compulsion goes.

9 In addition to everything I've mentioned, you
10 drugged your victims, so-- You can shake your head if you'd
11 like. It's not in dispute that you gave your daughters Ambien;
12 that that, of course, made them sleep. You talked in the PSR--
13 Ms. Woolam, please correct me if I'm wrong--but in a chat,
14 "Hey, one's not doing it." "Well, then, try two."

15 Is that right, Ms. Woolam? I just want to make
16 sure I'm not overstating anything, because I don't need to.
17 There's plenty enough here. But give me one second.

18 MS. WOOLAM: Yes, Your Honor. It's paragraph 26 of
19 the PSR. There's a message Kerby sent that said, "I tried
20 again with one, and it just doesn't knock her out." There are
21 other messages that I mentioned earlier discussing the Ambien
22 and his discussions with individuals.

23 THE COURT: Okay. Thank you.

24 So you are giving them strong sleep aids so you can
25 have your way with them. The complete disregard for the

1 innocence of your own family members is just hard to fathom,
2 but you did it.

3 You produced child sexual abuse material of two
4 additional child victims, and you distributed those materials
5 to other people. So it didn't just stop with your own
6 stepdaughters. You did all this in part, also, by hiding
7 cameras throughout your own house, capturing nude images of an
8 adult female who visited your home.

9 Combined, all of these considerations leave me no
10 doubt that you are an incredible danger to society. You
11 appeared to just use everything and everyone around you for
12 your own perverted deviant pleasures, without regard to their
13 well-being, without regard to the consequences, and without
14 sympathy to the impact that it might have on them.

15 I have not seen--I have not seen a case like this
16 before, and I've seen a lot. I often say that every time I
17 think I've seen truly the bottom of human depravity, a case
18 comes along and sadly proves me right, that I haven't found the
19 bottom, and this is one of those cases. So, again, the nature
20 and circumstances here are unlike anything I've seen, and I
21 can't overstate how serious they are.

22 Now, it's not the only thing I consider. I also
23 consider your history and your characteristics. And I note
24 that you have no criminal history, and that weighs in your
25 favor. I have taken that into account. It does not materially

1 mitigate or offset the nature and circumstances of what you
2 did, because it's just so serious.

3 I've considered the need to impose a sentence that
4 reflects the seriousness of the offense. I have to promote
5 respect for the law. You absolutely knew better. Time and
6 time and time and time and time again, you did what you wanted
7 to do, and then you shared it with others.

8 I have to give a just punishment. And if anybody
9 ever questions whether just punishment is a proper sentencing
10 consideration, I'll note that this courtroom is full. And it's
11 full of some of your supporters, but it's also full of some
12 community members who are ready to see just deserts be applied,
13 and that's something that Congress has told me to consider, and
14 I will.

15 I have to afford adequate deterrence of criminal
16 conduct, and I have to protect the public from further crimes.

17 I have considered whether any unwarranted
18 sentencing disparity would result if I were to apply a
19 guideline sentence. And, Mr. Mayo, I have considered *Randa11*,
20 and I have considered *Grzywinski*. Thank you for that briefing.
21 That is helpful for me to think about this case in relation of
22 others. Those cases--you know, many of those cases are--
23 they're just unique, and those cases are distinguishable. Of
24 course, there are aspects of those cases that aren't present
25 here that are aggravating, but there are things present here

1 that are aggravating that aren't present in those cases.

2 So, in *Randa11*, for example, while this is Kerby's
3 first conviction, Kerby is a hands-on offender of his own
4 stepchildren. The victims here trusted him. He was not some
5 online stranger. And, moreover, he repeatedly just manipulated
6 the environment around them to increase his ability to do what
7 he wanted with them.

8 As for *Grzywinski*, while that defendant's past
9 hands-on offense certainly weighed heavily, it wasn't part of
10 the direct offense at issue. The sentence was a substantial
11 upward variance in that case of about 20 years from the
12 guideline range, which was already raised in that case because
13 of the statutory minimum. Here, the guidelines range would be
14 life, if not for the statutory maximum.

15 Moreover, we have actual production of child
16 pornography in this case, not just an attempt, along with
17 Kerby's actual distribution of the images to others, which,
18 again, just compounds the trauma and the victimization.

19 And then finally, again, these were his own
20 stepdaughters to whom he was entrusted, not strangers.

21 So I find that there is no unwarranted disparity as
22 a result of the advisory guideline range. It's just advisory.
23 I'm going to impose a sentence that I think is the reasonable
24 one regardless.

25 After considering all of the statutory factors, the

1 purposes of sentencing, and the parties' arguments, I'm going
2 to deny the request for a concurrent sentence for the reasons
3 stated today by the Court and for the reasons stated by the
4 United States today in the court and in its sentencing
5 memorandum.

6 And for all of those reasons, the statutory
7 factors, the purposes of sentencing, the parties' arguments,
8 and all of the filings in this case, I have determined that a
9 sentence of 360 months as to Count 5, and 360 months as to
10 Count 6, to run consecutively, for a total of 720 months, is
11 sufficient, but not greater than necessary.

12 Given your age, sir, which is forty-five, I view
13 this as effectively a life sentence, but the judgment is
14 720 months.

15 I conclude that these sentences should run
16 consecutively in light of the egregious offense conduct, the
17 need for a just punishment and adequate deterrence, and the
18 need to protect the public from future crimes.

19 This offense involved extensive exploitation of the
20 defendant's stepchildren, stepchildren's friends, and even
21 other community members. The defendant's actions have
22 inflicted life-long harms on his victims, and a combined
23 30-year sentence would be wholly inadequate to provide a just
24 punishment for these actions and to protect the public from his
25 demonstrated repeated predation on children.

1 Accordingly, to properly account for all of the
2 3553(a) factors, I do find it necessary to impose the statutory
3 maximum as to each count and to run them consecutively.

4 I will inform both sides that, although I believe
5 the guideline calculations announced today were correct, to the
6 extent they were incorrectly calculated, I would have imposed
7 the same sentence without regard to that range, and I would
8 have done so for the same reasons, in light of the 3553(a)
9 factors.

10 This is one of those cases where, as I have
11 detailed, the nature and circumstances are just so egregious
12 that the only reasonable sentence, in this Court's view, is the
13 statutory maximum to both counts, regardless of the range, and
14 to run those consecutively, and I would do that regardless of
15 the range.

16 Upon release, if you are released, you will be on
17 supervised release for a term of life as to each count, to run
18 concurrently. While on release, you shall comply with the
19 mandatory conditions of release listed in your presentence
20 report and in Section 3583(d).

21 Mr. Mayo, did you and your client receive and
22 discuss my written notice of intent to impose the standard and
23 special conditions?

24 MR. MAYO: Yes, Your Honor. We executed it and
25 filed it into the Court's file, as well as he--I gave him a

1 copy as well.

2 THE COURT: All right. Thank you very much. I
3 appreciate that. Do you have any objections to those
4 conditions?

5 MR. MAYO: No, Your Honor.

6 THE COURT: All right. I have one minor change.
7 There was just a--either a typographical error on our part or a
8 misreporting of an address. But the special condition
9 involving restitution and the detailing of the various victims,
10 the address listed various amounts for Doe 1. The first "9"
11 that is listed in that address should be an "8." I'm just
12 going to make that change. I won't announce the entirety of
13 the address, but the first "9" for the address for Does 1 and 2
14 will be changed from a "9" to an "8."

15 Any objection to that?

16 MR. MAYO: No objection.

17 THE COURT: From the United States?

18 MS. WOOLAM: No objection, Your Honor.

19 THE COURT: Okay. All right. Hearing no
20 objections from either side to any of the conditions or the one
21 minor change today, the Court adopts those conditions today.
22 They will be included in their judgment--in my judgment. I
23 find that all of those conditions are related to the nature and
24 characteristics of the offense, the history and characteristics
25 of the defendant, the deterrence of criminal conduct,

1 protection of the public from further crimes, and the provision
2 of needed correctional treatment.

3 Further, I find that these conditions do not impose
4 any greater deprivation of liberty than reasonably necessary to
5 advance deterrence, protect the public, and advance the
6 defendant's correctional needs.

7 I find that the defendant does not have the ability
8 to pay a fine in addition to the restitution obligations and
9 the assessments, so I'm going to waive a fine.

10 He must, however, pay the mandatory special
11 assessment of \$200, 100 per count. That's due and payable
12 immediately to the United States.

13 The defendant is subject to the Amy, Vicky, and
14 Andy Child Pornography Victim Assistance Act of 2018. Based on
15 the defendant's financial condition and future earning capacity
16 and pursuant to 18 U.S.C. Section 2259, the defendant shall
17 immediately pay an assessment of \$10,000--5,000 per count--
18 payable to the District Clerk's Office here in Abilene.

19 If, upon the commencement of the term of supervised
20 release, any part of that remains unpaid, he shall make
21 payments on the unpaid balance beginning 60 days after release
22 from custody at a rate of at least \$200 per month until paid in
23 full.

24 The defendant is also subject to the Justice for
25 Victims of Trafficking Act. Based on his ability to pay and

1 the future earning capacity and his financial condition and
2 pursuant to 18 U.S.C. Section 3014, he shall immediately pay an
3 assessment of \$10,000--5,000 per count--payable to the Clerk's
4 Office in Abilene.

5 If, upon the commencement of the term of supervised
6 release, any part remains unpaid, he shall make payments on the
7 unpaid balance beginning 60 days after release from custody at
8 a rate of \$200 per month until paid in full.

9 Okay. Let's talk about restitution. Regarding
10 restitution, the Court must determine the full amount of the
11 victims' losses that were incurred or are reasonably projected
12 to be incurred by the victim as a result of the trafficking and
13 child pornography depicting the victim. That's
14 18 U.S.C. Section 2259(b)(2).

15 After doing so, I must order restitution in an
16 amount that reflects the defendant's relative role in the
17 causal process that underlies the victim's losses, but which is
18 no less than \$3,000.

19 Pursuant to Section 2259(c)(2), the full amount of
20 the victim's losses includes any costs incurred or that are
21 reasonably projected to be incurred in the future by the
22 victim, including medical services related to physical,
23 psychiatric, and psychological care; physical and occupational
24 therapy and rehab; necessary transportation; temporary housing
25 and child expenses; lost income; reasonable attorney's fees; as

1 well as other costs incurred and any other relevant losses
2 incurred by the victim.

3 The government bears the burden of demonstrating
4 the amount of loss sustained by the victim. That's *Paroline*.
5 And the Court may consider reliable evidence, including the
6 PSR, its addenda, and information provided by the victim.
7 That's *Serrata*, S-e-r-r-a-t-a, a Fifth Circuit case from 2017.

8 Once sufficient reliable evidence establishes the
9 victim's losses, the defendant must provide rebuttal evidence,
10 not mere objections, to contest the amount. That's both
11 *Serrata* and *Williams*, a Fifth Circuit case from 2021 and
12 Section 2259(b)(3).

13 To determine the extent to which the defendant
14 proximately caused losses to the victim, I consider several
15 rough guideposts pursuant to *Paroline*. While there are seven
16 rough guideposts in *Paroline* at 460, I won't list them all or
17 name them all, but I have considered them. They are in front
18 of me. This is not a rigid formula, and I need not make
19 explicit findings concerning all of the factors. That is
20 *Halverson*, H-a-l-v-e-r-s-o-n.

21 Here, there are multiple identified victims of
22 Kerby's offenses who have requested restitution. First, Jane
23 Does 1 and 2 have requested restitution due to Kerby's sexual
24 abuse of them, which he recorded and distributed to others.

25 Second, Maria and Pia, P-i-a, victims of known

1 series of child pornography, have requested restitution based
2 on the defendant's possession of their images.

3 The Court has reviewed the evidentiary packets
4 submitted by the victims and the parties' filings. Those are
5 Docket Numbers 44-1, 45, 47, 48, 50-2, 50-3, and 53-1.

6 Now, I understand that the parties have come to an
7 agreement on the total amount of restitution, and it's my
8 understanding that that total amount is \$540,042.08.

9 Is that right, Ms. Woolam? Is that the amount you
10 have?

11 MS. WOOLAM: That is correct, Your Honor.

12 THE COURT: Is that right, Mr. Mayo?

13 MR. MAYO: Yes, Your Honor.

14 THE COURT: Okay. That is the amount ordered that
15 the defendant must pay in restitution. Restitution shall be
16 paid to the District Clerk's Office in Abilene, Texas, for
17 disbursement in the following ways and to the following
18 victims:

19 \$251,708.48 to Jane Doe 1, to Justin Cheyne in
20 trust for Jane Doe 1, in Tuscola, Texas;

21 \$250,987.06 to Jane Doe 2, paid to the Clerk's
22 Office for Justin Cheyne--it's C-h-e-y-n-e--in trust for Doe 2,
23 in Tuscola, Texas;

24 \$22,346.54 to Jane Does 1 and 2 jointly, paid to
25 the Clerk's Office for Justin Cheyne in trust for Does 1 and 2,

1 in Tuscola, Texas;

2 \$7500 to Maria, paid to the Clerk's Office for
3 Carol Hepburn in trust for Maria; and

4 \$7500 to Pia, to Deborah Biano in trust--
5 B-i-a-n-o--in trust for Pia, in Bellevue, Washington.

6 Based upon the documentation provided to the Court,
7 the Court has conducted the analysis required by *Paroline*, and
8 I do find that the restitution amounts that were awarded are
9 costs incurred or costs reasonably projected to be incurred in
10 the future by the victims as a proximate result of the
11 defendant's offense.

12 For Does 1 and 2, Kerby sexually abused these
13 victims, filmed their abuse, distributed the images and videos
14 to an unknown number of individuals online. Given that these
15 images and videos are the direct result of Kerby's own offense
16 conduct, their losses are directly and proximately caused by
17 him. The restitution amounts address conservative estimates of
18 the psychological counseling and medical treatment that Does 1
19 and 2 will need as a result of Kerby's actions, as detailed in
20 Docket Numbers 44-1, 47, 53-1, Government's Sealed Exhibit A to
21 Docket Number 47.

22 As explained in these documents, an hour of
23 professional counseling generally costs \$150 to \$200. Using
24 the median rate at one session per week for 35 years, taking
25 the Jane Does to ages forty and thirty-seven, their counseling

1 costs will be around \$245,000, not taking into account
2 inflation, medications prescribed, or the need for more
3 intensive counseling.

4 It is reasonably likely that they will end up
5 needing more than this median cost, making the awards of
6 250,000 to both Does appropriate future projections for
7 counseling expenses. The additional \$1,708.48 to Doe 1 and
8 \$987.06 to Doe 2 reflect already-incurred medical expenses
9 detailed in their restitution filings.

10 Moreover, the additional \$22,346.54 to Does 1 and 2
11 jointly addresses expenses incurred for transportation and
12 housing for the Does after the FBI raid on their previous
13 residence when they were residing with Kerby. These costs are
14 outlined in Docket Numbers 44-1 and 53-1, and the Court finds
15 that they are reasonable costs incurred as a direct and
16 proximate result of Kerby's offense for the reasons stated in
17 Docket Number 47.

18 I further note that these awards to Does 1 and 2
19 were addressed in briefing by both the defendant and the
20 government, and the parties agree that these amounts were costs
21 incurred or costs reasonably projected to be incurred in the
22 future as the proximate result of the defendant's offense. See
23 Docket Numbers 45, 47, and 48.

24 As for Kerby's collection of child pornography with
25 the victims Maria and Pia, I do find that, specifically, Kerby

1 had three files depicting Maria. She has provided
2 documentation of an estimated lifetime cost between 124,000 and
3 change and 149,000 and change, excluding attorney's fees,
4 resulting from the production and distribution of images of
5 her. 187 prior restitution orders have been made for Maria,
6 but only 82 defendants have actually made any payments.

7 while Kerby did not produce these images, his
8 possession of them contributes to her continued
9 revictimization. Accordingly, based on the documentation
10 provided and the *Paroline* analysis the Court has done, I do
11 conclude that \$7500 represents costs incurred or reasonably
12 projected to be incurred in the future by Maria as a proximate
13 result of the defendant's offense. This amounts to only
14 6 percent of the lower end of Maria's estimated losses.

15 As for Pia, Kerby possessed seven files depicting
16 Pia. Pia has provided documentation estimating that she will
17 incur 286,000 to 323,000 for psychological care, and she
18 anticipates losing between 800,000 and 1.4 million in
19 employability as a result of the production and distribution of
20 the child pornography images of her. It's unknown how many
21 persons possessed her images or how many restitution awards
22 have been made. Again, he didn't produce--the defendant didn't
23 produce these images, but his possession of them aggravates the
24 trauma she faces due to these images of her at ages of three to
25 six years old.

1 Kerby's actions, like others who possessed these
2 images, effectively reinflicts the harm perpetrated against the
3 victim. So, based on the documentation provided and my
4 consideration of the *Paroline* factors, I do conclude that \$7500
5 represents the costs incurred or reasonably projected to be
6 incurred in the future by Pia as a proximate result of the
7 defendant's offense. This amounts to 2.5 percent of the low
8 end of her estimated costs of psychological care.

9 Mr. Mayo, does the defendant believe that any
10 additional findings or explanation of the Court's conclusion is
11 required to sustain an award of restitution in an amount of
12 \$540,042.08 to these victims?

13 MR. MAYO: No, Your Honor.

14 THE COURT: Does the government?

15 MS. WOOLAM: No, Your Honor.

16 THE COURT: Then that will be the order.

17 If, upon the commencement of the term of supervised
18 release, any part of this restitution remains unpaid, the
19 defendant shall make payments on the unpaid balance beginning
20 60 days after release from custody at a rate of at least \$500
21 per month until paid in full.

22 It's ordered that your interest in the following
23 property is condemned and forfeited to the United States:

24 A black Seagate 2 terabyte external hard drive with
25 a serial number that ends in 0TM and all other items listed in

1 Exhibit A by law enforcement during the search of the
2 defendant's residence on August 28th and turned over to law
3 enforcement on September 5th of 2023 and September 11th of
4 2023.

5 Mr. Mayo, I'm happy to pronounce all of the
6 property listed in Exhibit A here today, unless the defense and
7 the United States wish to waive that pronouncement. Mr. Mayo,
8 can you confirm whether you would like the Court to pronounce
9 all of the property listed in Exhibit A?

10 MR. MAYO: Yes, Your Honor, that is appropriate.
11 There's--and I'll get with the government as far as some other
12 additional family photos and things of that nature that weren't
13 included in Exhibit A that I know Mr. Kerby had an interest in
14 preserving for his family, but I'll get with the government on
15 that.

16 THE COURT: Okay. So let me make sure I
17 understand. It's appropriate for you to waive the reading of
18 Exhibit A?

19 MR. MAYO: That is correct, Judge.

20 THE COURT: Okay. Ms. Woolam, do I need to read
21 Exhibit A into the record, or will the government waive it, as
22 well?

23 MS. WOOLAM: The government waives that reading, as
24 well, Your Honor.

25 THE COURT: Okay. All right. And, Ms. Woolam,

1 just for the record, will you, well, confirm with me, Exhibit A
2 is found in--I have it in Docket Number 29 at pages 3 to 6, so
3 the record is clear on that. You can confirm that and correct
4 me if I'm wrong. But just so everyone is clear, that is
5 Exhibit A. That is what--that is the material that I am
6 forfeiting.

7 All right. I will recommend to the Bureau of
8 Prisons that, while incarcerated, the defendant receive
9 appropriate sex offender, substance abuse, and mental health
10 treatment, but I didn't lengthen the defendant's term of
11 imprisonment to promote rehabilitation.

12 All right. Mr. Kerby, to the extent you have not
13 waived your right to appeal, you do have the right to appeal
14 your conviction and your sentence. If you'd like to appeal,
15 you need to file a notice of appeal within 14 days of today in
16 this Court. If you want to do that, just tell Mr. Mayo. He's
17 very familiar with that process, and he can help you get that
18 done.

19 He can also ask that the costs associated with that
20 appeal go to the United States, and not to you.

21 Do you understand those appellate rights?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. All right. Mr. Mayo, anything
24 else from the defense?

25 MR. MAYO: Judge, I would just ask for a nonbinding

1 recommendation to Seagoville.

2 THE COURT: That's granted. I'll make a nonbinding
3 placement recommendation to FCI Seagoville.

4 MR. MAYO: Thank you, Judge.

5 THE COURT: All right. And, Mr. Mayo, you were
6 appointed by the Court to represent Mr. Kerby in this case; is
7 that right?

8 MR. MAYO: Yes, Your Honor.

9 THE COURT: I want to thank you for accepting that
10 appointment. Not all appointments are created equally. This
11 required an extensive amount of work on your part and
12 collaboration with the United States. You have done an
13 excellent job for your client. The Court couldn't do its work
14 without members of the bar being willing to take criminal
15 appointments. So on behalf of the Court of the Northern
16 District, thank you for your service to the Court.

17 Anything else from the United States?

18 MS. WOOLAM: No, Your Honor.

19 THE COURT: All right. One second.

20 (PAUSE)

21 THE COURT: All right. Mr. Kerby, at this time,
22 you are remanded to the custody of the United States Marshal.

23 Court is adjourned.

24 (END OF HEARING)
25

1 I, Mechelle Daniel, Federal Official Court Reporter in and
2 for the United States District Court for the Northern District
3 of Texas, do hereby certify pursuant to Section 753,
4 Title 28, United States Code, that the foregoing is a true and
5 correct transcript of the stenographically reported proceedings
6 held in the above-entitled matter and that the transcript page
7 format is in conformance with the regulations of the Judicial
8 Conference of the United States.

9
10 /s/ Mechelle Daniel DATE JULY 8, 2024

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MECHELLE DANIEL, CSR #3549
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